

FREDERICK COUNTY PLANNING COMMISSION

FEBRUARY 11, 2009

MINUTES

COMMISSION MEMBERS PRESENT:

Joseph Brown
Richard Floyd
Kai Hagen
Catherine Forrence

John McClurkin
Audrey Wolfe, Chair
Robert White Secretary

COMMISSION MEMBERS ABSENT:

PLANNING STAFF PRESENT:

Eric Soter
Mark Depo
Jim Gugel
Michael Chomel

Larry Smith
Tim Goodfellow
Janet Davis
Tim Blaser

9:30 A.M.

MORNING SESSION

MS. WOLFE BROUGHT THE MEETING TO ORDER AT 9:30 AM.

1) MINUTES

APPROVAL

A) January 21, 2009

Consensus

MOTION: Robert White made a motion to have minutes adjusted to reflect “consensus” agreements. Audrey Wolfe, FcPc Chair, noted that there was a **consensus** vote.

2) PLANNING COMMISSION COMMENTS

INFORMATIONAL

None.

3) AGENCY COMMENTS/AGENDA BRIEFING

INFORMATIONAL

Mark Depo asked for an agreement, from FcPc, as to how and when to take Public Comment. Planning Division’s Jim Gugel explained some of the issues concerned, a few options, and reminder of that the three (3) minute the restriction would be respected. Discussion continued regarding various options and comments regarding hearing conceptual thoughts vs. specific property comments being allowed.

Consensus

MOTION: Audrey Wolfe, FcPc Chair, noted that there was a **consensus** vote to hear only Conceptual Information at the end of each section.

Mark Depo clarified that the FcPc would continue to take ‘specific property’ comments in written format and would allow Public Comments regarding the topic that had been discussed at the end of each section not those coming up later on the schedule.

Commissioner Forrence requested a discussion and agreement for the review of all LOU (Letter of Understanding). She proposed adding LOU’s to the FcPc Agenda and ask for public comment, noting that the process was important and should be aired. Discussion continued regarding the length of time this would add to meeting, the number of LOU’s received, and FcPc involvement/role. Mark Depo

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made a proposal to build in a review (TS 00:08:50 - 00:17:28) process that would satisfy FcPc. He would talk to Ron Burns and come back to the FcPc to determine if it was adequate.

4) ZONING ORDINANCE TEXT AMENDMENT

RECOMMENDATION

Case ZT-09-01 - Catastrophic Event The zoning ordinance text amendment which proposes to create a new section §1-19-2.160 (D) to allow the replacement of a structure damaged by a catastrophic event to be approved without requiring Planning Commission approval of a site plan and amend §1-19-11.100 by adding a definition for “catastrophic event” (Mark Depo, Larry Smith).

STAFF PRESENTATION: Larry Smith presented the Staff Report. Planning Staff provided a draft text amendment (being reviewed) to add a new section to §1-19-2.160 and to add a definition for “catastrophic event”. Planning Staff referred the proposed amendments to other County agencies for input and have not received any comments. The Citizens Zoning Review Committee (CZRC) during the review of the zoning ordinance did not specifically address this issue.

RECOMMENDATION: Staff recommends that a public hearing be held and that FcPc provide a recommendation to the BoCC.

DISCUSSION:

Topics discussed include “in-kind” limits of building, historic structures, similar architecture and look. In-kind language was discussed at length and what variance would necessitate the involvement of FcPc. It was noted that a request to change/increase parking or footprint would go back before the commission. More definitive language was discussed. Michael J. Chomel, Sr. Asst. County Attorney, noted that proposed text amendment allows the Zoning Administrator and Staff to work with the Owner of the building to try and ameliorate some of [the issues being discussed] without a full site plan approval process – because some structure would not meet current site plan requirements [built prior to the code]. Mark Depo noted that this Text Amendment was for non-conforming commercial use, built before the code.

PUBLIC COMMENT:

Andrew DiPasquale, Miles & Stockbridge representing H. C. Summers, Inc. – recommended a change to the **Definition of Catastrophic Event** (add): “...or other disaster not caused by the willful act or omission of the property owner or his agent.” He felt this would allow for negligence but still not willful (purposeful) intentional destruction.

*** 1055 BREAK – 11:06 RECONVENED ***

MOTION 1: The FcPc recommend to the Board of County Commissioners (BoCC) approval of Text Amendment ZT-09-01; Moved by White, 2nd by Brown

6-0-0-1

Yea - 6 (Brown, Floyd, Forrence, McClurkin, White, Wolfe), **Nay – 0, Absent – 0, Abstain – 1** (Hagen)

Motioned Carried

MOTION 2: Commissioner White moved to recommend to the Board of County Commissioners that the following wording be added (**BOLD AND CAPITALIZED**) to Text Amendment ZT-09-01:

- *Catastrophic event.* A fire, explosion, flood, hurricane, tornado, or other disaster not caused by **IN KIND (DESIGN & HEIGHT)** the property owner or his or her agent. Moved by White, 2nd by Forrence.

No Vote

Motion Withdrawn

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MOTION 3: The FcPc recommended to the Board of County Commissioners that the following wording is added (**BOLD AND CAPITALIZED**) to Text Amendment ZT-09-01:

- *Catastrophic event.* A fire, explosion, flood, hurricane, tornado, or other disaster not caused by **THE WILLFUL ACT OR OMISSION OF** the property owner or his or her agent. Moved by White, 2nd by Brown.

5-1-0-1

Yea - 5 (Brown, Floyd, McClurkin, White, Wolfe), **Nay – 1** (Forrence), **Absent – 0**, **Abstain – 1** (Hagen)

Motioned Carried

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5) COUNTYWIDE COMPREHENSIVE PLAN

INFORMATIONAL

Workshop #20: Continuation of the Countywide Comprehensive Plan Update
(Jim Gugel – Update memo)

A) Review Chapter Drafts

(a) **Chap. 3 – Background**

(b) **Chap. 4 – Conserving our Natural Resources and Green Infrastructure**

Consensus

MOTION: Commissioner Forrence made a motion to add an Action Item (NRA#13) Implement the Green Infrastructure Plan at the conclusion of the Comprehensive Plan and or some language. Audrey Wolfe, FcPc Chair, noted that there was a **consensus** vote. **TS - 1:47:35.**

Consensus

MOTION: Commissioner White made a motion to have Staff rework the wording regarding the treatment of one lane bridges (to be more like that phased for rural roads) to balance the capacity needs of a utility and the physical impact on the environmental feature. Commissioner White, FcPc Secretary, noted that there was a **consensus** vote. **TS - 2:18:35.**

Comments and concerns were made and suggestions to add statements regarding protection of the Potomac and the Bay. Structural formatting, wording corrections and word-change suggestions in the document were made. Continued wording revisions were suggested. FcPc conveyed their intention.

(c) **Chap. 5 – Protecting and Preserving our Heritage**

When questioned regarding inducing participation and Goal 2's "Protect" Heritage Program, Janet Davis (**TS 04:35:00**) noted that there was clause in the county ordinance which designates an area of special merit that has never been attempted. Commissioner White inquired if this allowed a mandate as opposed to encouragement. Ms. Davis affirmed this and noted process. Discussion continued.

Commissioner Forrence commented she had thought an agreement to change Action Item HPA07 had been made (**TS 04:42:00**) to add the word 'prioritize'. Ms. Davis clarified HPA07 is an Inventory Book to educate the market and broaden the historic heritage of Frederick County. Ms. Davis gave comments on photographing items. Discussion regarding photographing, language of the Action Items, and documentation to validate features continued. Jim Gugel suggested starting Goal #3 with the word "Protect." It was agreed that was the main focus of the goal "Locate, Designate, **Protect** and Maintain the most important Historic Structures." Additionally, Mr. Gugel offered to add an Action Item that would reference the location designation and "prioritization" of sites/structures/areas, etc. (**TS 04:49:20**).

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The use of photographs was further discussed as well as the desire for a prioritized list of Historical Structures.

Commission White noted he had issues with the term “Adaptive Reuse” ever since Gilford Property. The word “protect” was the main focus of Goal #3 “Locate, Designate, **Protect** and Maintain the most important Historic Structures” and its inclusion was agreed to be the main emphases for Goal #3 and adding an Action Item that would reference the location, designation, and prioritization of sites/structures/areas, etc. (TS 04:49:20).

Discussions were held on other Goals, Action Items and Policies including: Adaptive Reuse clarification and guidelines, demolition by neglect, willful omission, implications of policies and interpreting scope of the commission (Architecture Review), and rehabilitation were discussed. Jim Gugel noted that there would be a separate Design Chapter that may be appropriate for the context of this subject. Ms. Davis pointed out - the intention of “Rehabilitation, in HP Projects, does not touch on use. It’s what the structure is going to be used for. What are the important things for it to be retained to carry its character defining features and its importance in its context”? (TS 05:01:55). Continued suggestions were made including; Commissioner White suggested the elimination of the narrative prior to the Action Items; added context, using all methodologies of promoting all Action Items equally, continually investigating new means of outreach and education as well as county “tools”. FcPc conveyed their intention.

*** 2:50 BREAK - 2:58 RECONVENED ***
COMMISSION FLOYD DID NOT RETURN AFTER BREAK

(d) Chap. 6 – Preserving our Agricultural and Rural Communities

The Vision statement “Frederick is an Agricultural County” drew comments from FcPc. Commissioner Hagen suggested wording adjustment (TS - 5:30:47). “Agriculture is an essential part of Frederick County’s history, identity and future.” Structural formatting, wording corrections and word-change suggestions in the document were made. Continued wording revisions were suggested. Growth Boundary area and Frederick City potentially annexing areas, prime farmland driving the designation of Agricultural Priority Preservation areas, continued support of Farmers Market and study of the feasibility of the transfer of development rights concept and other alternatives (TDR), other positively stated action items, in-perpetuity Ag Preservation purchases, (TS - 6:05:00) were discussed.

Consensus

All other scheduled Agenda items were postponed till the next meeting. It was agreed that the FcPc would meet every Wednesday until CwCP is completely reviewed. A March 4th afternoon meeting was added to the schedule.

*** ADJOURNED MEETING AT 3:43 ***

Respectfully Submitted,

Audrey Wolfe, Chair

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